Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [Insert date 30 days from the date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2013-050-C.

Petitioner: Speed Mining, LLC, 1144 Market Street, P.O. Box 871, Wheeling, West Virginia 26003.

Mine: American Eagle Mine, MSHA I.D. No. 46-05437, Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to oil and gas wells.

1. The petitioner proposes, prior to mining through any oil or gas well at its American Eagle Mine, to provide the District Manager (DM) a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by down-hole logs.

2. The techniques and procedures in this petition are limited to oil and gas wells that have a maximum depth of 5,000 feet or less.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

(1) Clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam. Remove material from the entire diameter of the well, wall to wall, to the extent feasible and practicable.

(2) Remove all of the casing in the well or, if it is not possible to remove all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, cut or mill it, at all mineable coal seam levels, and perforate or rip it at least every 50 feet from at least 200 feet below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. When multiple casing and tubing strings are present in the coal horizon(s), perforate or rip any casing that remains and fill with expanding cement. Keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(3) Place a mechanical bridge plug in the well if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum.

(4) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. In addition, maintain a journal describing the length and type of each material used to plug the well; the length of casings removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, place a minimum of 200 feet of expanding cement below the lowest mineable coal seam.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet below the base of the lowest mineable coal seam to the surface. Place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam. A gel that supports the wall of the borehole and increases the density of the expanding cement may be used to provide the placement pressure.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (e.g., prime farmland), use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet of expanding cement below the lowest mineable coal seam. Place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Extend the top of the expanding cement at least 30 feet above the top of the coal seam being mined.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Cement the annulus between the degasification casing and the borehole wall from a point immediately above the slots or perforations in the pipe to the surface.

(4) Clean out the degasification casing for its total length.

(5) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(6) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet below the lowest mineable coal seam.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet below the base of the lowest mineable coal seam up to 100 feet above the seam being mined. Fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill with expanding cement. Provide an acceptable casing bond log for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is sufficient casing in the well to allow use of the method outlined in subparagraph (3) above. Fracture the original well in at least six places from at least 200 feet below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. Pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug.

Maintain a journal describing the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well.

(6) After plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drivage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The drivage spads will not be more than 50 feet from the well. Install distance markers along the headgate on 5-feet centers for 20 feet in advance of the well when using longwall-mining methods.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the

conventional or continuous mining method is used), will be available and operable during each well mine-through. Locate the fire hose in the last open crosscut of the entry or room. Maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs available in the immediate area of the cut-through.

(5) Maintain the quantity of air required by the approved mine ventilation plan for both continuous and longwall mining.

(6) Check equipment for permissibility if it will be inby the last open crosscut during mine-through and service it on the shift prior to mining through the well.

(7) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(8) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 20 feet of the well until the well is intersected and immediately prior to mining through it or from the time that mining with longwall mining equipment is within 10 feet of the well. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe.

(9) Keep the working place free from accumulations of coal dust and coal spillages, and place rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the wellbore is intersected and thoroughly examine the place and determine it safe before resuming mining. No open flame is permitted in the area until adequate ventilation has been established around the wellbore.

(11) In rare instances, torches may be used for inadequately or inaccurately cut or milled casings at the coal seam level. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. Apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) After a well has been intersected and the working place determined safe, continue mining inby the well at a distance sufficient to permit adequate ventilation around the area of the wellbore.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, mine management, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the cut-through operation.

(15) Locate non-sparking (brass) tools on the working section in the event they are needed to expose and examine cased wells.

(16) Alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. Repeat this warning for all shifts until the well has been mined through. Mining may be conducted in other working sections during the intersection of the well.

(17) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 60 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan. Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M-2013-051-C.

Petitioner: Jim Walter Resources, Inc., 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244.

Mines: No. 4 Mine, MSHA I.D. No. 01-01247 and No. 7 Mine, MSHA I.D. No. 01-01401, located in Tuscaloosa County, Alabama.

Regulation Affected: 30 CFR 75.1506(a)(3) (Refuge alternatives).

Modification Request: The petitioner requests a modification of the existing standard to permit the continued use of its currently deployed refuge alternatives chambers in the No. 4 and No. 7 Mines past December 31, 2013, provided that they are refurbished or replaced as soon as practicable thereafter.

The petitioner asserts that: (1) compliance with the standard's current December 31, 2013, deadline (to the possible) will result in a diminution of safety to miners; and (2) allowing the use of its currently deployed units will at all times in the foreseeable future guarantee no less than the same measure of protection afforded the miners by the standard. The petitioner states that:

(1) MineARC refuge chambers are currently in use at the No. 4 and No. 7 Mines.

(2) The MineARC refuge chamber is the only commercially available refuge model to incorporate both a powerless carbon dioxide/carbon monoxide (CO_2/CO)

scrubber as well as an intrinsically safe air conditioning system (refrigerant R744) housed within the same constructed unit.

(3) The use of MineARC refuge chambers at No. 4 and No. 7 Mines has been continuously approved in the Mines' Emergency Response Plans (ERPs) since February 2009.

(4) The MineARC refuge chambers are currently undergoing 30 CFR Part 7 approval.

(5) MineARC's efforts to obtain Part 7 approval have been in good faith and delays in receiving Part 7 approval are common throughout the industry as reflected by the current absence of approved chambers.

(6) In addition to the pending 30 CFR Part 7 approval process, the MineARC refuge chambers in use at the No. 4 and No. 7 Mines must be refurbished to comply with the directives of MSHA's Program Policy Letter No. P11-V-17.

(7) On April 4, 2013, MineARC informed the petitioner that MineARC will be unable to refurbish or replace all of the petitioners units prior to December 31, 2013, for the petitioner to comply with 30 CFR 75.1506(a)(3) and/or the requirements of MSHA's Program Policy Letter No. P11-V-17.

(8) Replacing the currently deployed MineARC refuge chambers by December 31, 2013, with non-air conditioned, MSHA-approved refuge chambers is not feasible and/or would place the miners at significant and greater risk in any emergency.

(9) The only way to guarantee no less than the same measure of safety to the miners as afforded by the standard prior to December 31, 2013, is for MSHA to approve continued deployment of its MineARC refuge chambers until their replacement with like units and/or refurbishment of current units as soon as practicable.

(10) Without instant granting of this petition, it will be impossible to submit the currently deployed MineARC chambers for approval by the District Manager in its ERPs under 30 CFR 75.1507 for January 2014 and later use.

(11) Granting of this petition will in no way limit the authority of the District Manager to require appropriate measures in Jim Walter Resources' ERPs to assure timely replacement of its current MineARC chambers with fully-compliant refurbished units.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Dated: November 19, 2013

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George F. Triebsch
Director
Office of Standards, Regulations and Variances

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